

REMARKS

By this amendment, Applicants have amended claims 1, 7, 11, 16, and 21; and canceled claim 12, without prejudice. As a result, claims 1-11 and 13-23 remain pending in this application. These amendments are being made to facilitate early allowance of the presently claimed subject matter. Applicants do not acquiesce in the correctness of the rejections and reserve the right to pursue the full scope of the subject matter of the original claims, or claims that are potentially broader in scope, in the current and/or a related patent application. Reconsideration in view of the following remarks is respectfully requested.

In the Final Office Action, the Office rejects claims 1-6 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,473,773 (Aman) in view of U.S. Patent No. 6,665,716 (Hirata) further in view of U.S. Patent Publication No. 2003/0135580 (Camble). In order to maintain a proper rejection under 35 U.S.C. § 103(a), the Office must show that the proposed combination of references teaches or suggests each feature of the claimed inventions. Applicants respectfully submit that the Office fails to present such a showing.

For example, with respect to claim 1, Applicants respectfully submit that the Office fails, *inter alia*, to show that the proposed combination of Aman in view of Hirata further in view of Camble teaches or suggests determining a set of available resources within a computer system as in claim 1. In support of the rejection, the Office cites Aman, col. 3, lines 1-17; and col. 4, lines 14-20 as allegedly disclosing this feature. However, these portions of Aman describe resource reallocation from a donor performance goal class to a receiver performance goal class. To this extent, in Aman, the resources are not unallocated, and therefore available, resources, but are allocated and subsequently reallocated to another performance goal class. In contrast, as described in the specification, an allocation system allocates resources to a process, which are

available (i.e., not allocated to another process). See, e.g., specification, paragraphs 0030, 0034. As a result, Applicants submit that Aman fails to teach or suggest determining a set of available resources as in claim 1.

In response to Applicants' previous arguments, the Office alleges that Paragraph 0019 of Camble allegedly discloses this feature. However, in Camble, a set of drives and slots are reserved for a particular customer. Camble, paragraph 0019. To this extent, the set of drives and slots in Camble are not unallocated to any process executing on the computer system and available for use by any process executing on the computer system as in claim 1, but are rather reserved for a particular customer, should they be required. Camble, paragraphs 0019-0021. As a result, the Office's proposed inclusion of Camble fails to address the deficiencies of Aman.

With further respect to claim 1, Applicants respectfully submit that the Office fails to show that the proposed combination of Aman in view of Hirata further in view of Camble teaches or suggests determining an anticipated benefit for the set of available resources for each process in the set of lagging processes using a benefit knowledge database, the benefit knowledge database including information on a previous execution performance-related measurement of the lagging process for a corresponding previous allocation of resources during a previous execution of the lagging process, the anticipated benefit for each process including an anticipated difference in at least one execution performance-related measurement for the execution of the process by the computer system should the set of available resources be allocated as additional resources for the process as claimed therein. Initially, Applicants note that the Office recognizes that Aman does not include any teaching or suggestion for determining a set of lagging processes. See, e.g., Final Office Action, p. 3. Further, as discussed

above, Aman does not include any teaching or suggestion for determining a set of available resources. For these reasons, Aman does not teach or suggest the claimed feature.

Additionally, Applicants submit that the Office fails to show that Aman teaches or suggests determining an anticipated benefit... for each process... as in claim 1. In contrast, the portions of Aman cited by the Office in support of the rejection discuss determining a net value relative to changes for both a receiver and donor. Aman, col. 3, lines 45-48. The receiver and donor are classes of work units. Aman, col. 3, lines 30-31, 44-45, Abstract. In contrast, claim 1 determines an anticipated benefit for a set of available resources for each process in the set of lagging processes. To this extent, while Aman teaches determining benefits of allocating resources to classes of work units, Applicants claim determining an anticipated benefit for allocating resources to individual processes in claim 1. As a result, Applicants submit that Aman teaches away from Applicants' invention of claim 1.

Further, Applicants note that the lagging processes of claim 1 are "running behind a target schedule". It is impossible for any class in Aman to be running behind a target schedule since classes in Aman are not running or scheduled for execution. In contrast, a class in Aman defines a group of work units of a particular type. Aman, Abstract; col. 2, lines 53-67.

In response to Applicants' previous arguments, the Office analogizes that "if multiple ferrets are running, then this entire group of ferrets is running. Instead of always referring to this entire group of ferrets as 'a group of ferrets', one can call them a class. The word 'class' itself may not be technically running, but what it is referring to, 'a group of ferrets', is indeed running." Final Office Action, page 12, iii. Initially, Applicants note that the Office's statement expressly agrees with Applicants' contention that Aman's classes are not executing, nor scheduled for execution as in claim 1. The Office continues to confuse analysis of the "class" of Aman with

analysis of each of the “work units”, which can be members of the class, but are distinct from the class. In the Office's analogy, analysis of an entire group of ferrets is clearly distinct from analysis of each individual ferret. For example, analysis of the group of ferrets, much like the analysis of the classes in Aman, would not identify a particular ferret within the group that would benefit most from being given a limited amount of water or food that is available to be provided to one or more of all the ferrets.

Additionally, the Office contends that Aman, col. 8, lines 17-25 allegedly teach that "the performance index improvement value is projected for the process, if the process were to received (sic) additional resources." Final Office Action, pp. 12-13, iv. However, Applicants again note that this portion of Aman is again only referring to receiver and donor classes. No where in this portion of Aman are processes executing or scheduled for execution on a computer system discussed.

Regardless, Applicants have amended claim 1 to expressly state that the anticipated benefit is determined using a benefit knowledge database, which includes information on a previous execution performance-related measurement of the lagging process for a corresponding previous allocation of resources during a previous execution of the lagging process. Applicants submit that the Office's proposed combination of Aman, Hirata, and Camble fails to include any such teaching or suggestion.

In light of the above, Applicants respectfully request withdrawal of the rejections of claim 1 and claims 2-6, which depend therefrom, as allegedly being unpatentable over Aman in view of Hirata further in view of Camble.

Further, the Office rejects claims 7-10, 13-19, and 21-23 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Aman in view of U.S. Patent No. 6,076,174 (Freund) further

in view of Camble. Applicants respectfully submit that the Office fails to present a sufficient showing to maintain the rejections.

For example, with respect to claim 7, for reasons that should be clear from the discussion of Aman and Camble above, Applicants respectfully submit that the Office fails, *inter alia*, to show that the proposed combination of Aman in view of Freund further in view of Camble teaches or suggests determining a set of available resources within a computer system and/or determining an anticipated benefit for the set of available resources for each process scheduled for execution on the computer system based on learned benefit knowledge, the anticipated benefit for each process including an anticipated difference in at least one execution performance-related measurement with respect to the execution of the process should the set of available resources be allocated as additional resources for the process as claimed therein.

Further, Applicants respectfully submit that the Office fails to show that the proposed combination of Aman in view of Freund further in view of Camble teaches or suggests allocating at least some of the set of available resources to a process based on the anticipated benefits as in claim 7. Applicants note that as discussed above, Aman teaches adjusting system control data elements for classes of work units, not an individual process as in claim 7.

Applicants submit that the proposed combination of Aman with Freund and Camble fails to address the deficiencies of Aman discussed above. For example, Freund discusses performance information for a computer in a network, which is distinct from the processes of claim 7. Further, Camble discusses disabling/redefining storage capacity for users according to their corresponding storage capacity rights, which also is distinct from the processes of claim 7. In light of the above, Applicants respectfully request withdrawal of the rejections of claim 7 and

claims 8-10 and 13-15, which depend therefrom, as allegedly being unpatentable over Aman in view of Freund further in view of Camble.

With respect to claim 16, for reasons that should be clear from the discussion of Aman, Freund, and Camble above, Applicants respectfully submit that the Office fails, *inter alia*, to show that the proposed combination of Aman in view of Freund further in view of Camble teaches or suggests a resource system and a benefit system that include all of the limitations claimed therein. As a result, Applicants also respectfully request withdrawal of the rejections of claim 16 and claims 17-19, which depend therefrom, as allegedly being unpatentable over Aman in view of Freund further in view of Camble.

With respect to claim 21, for reasons that should be clear from the discussion of Aman, Freund, and Camble above, Applicants respectfully submit that the Office fails, *inter alia*, to show that the proposed combination of Aman in view of Freund further in view of Camble teaches or suggests program code for determining an availability of resources within a computer system and program code for determining an anticipated benefit for each process scheduled for execution on the computer system as claimed therein. As a result, Applicants also respectfully request withdrawal of the rejections of claim 21 and claims 22-23, which depend therefrom, as allegedly being unpatentable over Aman in view of Freund further in view of Camble.

Further, the Office rejects claims 11-12 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Aman in view of Freund further in view of Hirata and further in view of Camble. Applicants incorporate the arguments presented above with respect to claim 7, from which these claims depend, and respectfully request withdrawal of the rejection of claims 11-12 as allegedly being unpatentable over Aman in view of Freund further in view of Hirata and further in view of Camble for those reasons.

Further, the Office rejects claim 20 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Aman in view of Freund further in view of U.S. Patent No. 5,996,013 (Delp) and further in view of Camble. Applicants incorporate the arguments presented above with respect to claim 16, from which claim 20 depends, and respectfully request withdrawal of the rejection of claim 20 as allegedly being unpatentable over Aman in view of Freund further in view of Delp and further in view of Camble for those reasons.

Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary and/or in a related patent application, either of which may seek to obtain protection for claims of a potentially broader scope.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

/John LaBatt/

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